

No.	ISSUE DESCRIPTION	Comment Raised By	STAFF COMMENTS & RECOMMENDATION	BOARD COMMENTS
A.	BOARD OF SUPERVISOR COMMENTS			
1)	Please provide the current tax rate structure or formula used to value land abutting a perennial stream. Provide specific examples of lots in the AR-1, AR-2, JLMA areas; Suburban Area, both residential and commercial, showing value assessment under the Fair Market Value, Open Space, Agricultural, Forestall, and Horticultural Land Use Deferral Tax Program.	Kurtz	The current tax rate structure used to value land abutting a perennial stream depends upon the land use classification of the property. If the land falls within the major floodplain, the current value is \$2,500 per acre. If the land is in qualifying open space, the value is \$1,700 per acre. If the land is qualifying agriculture, the rate is \$10 to \$50 per acre, based on the underlying soil type. If the land is qualifying horticulture, the rates vary from \$40-\$140 per acre, based on the underlying soil type. If the land is qualifying forestall, the rates vary from \$212-\$486 per acre. Land adjacent to a perennial stream on property that is not enrolled in the land use program is currently assessed at fair market value.	
2)	<p>From the County Attorney’s Office, please provide information on the logistics of accepting a full length and width (a100 ft riparian buffer on each or both sides of a perennial stream) as a conservation easement.</p> <p>For example: If I owned a parcel that had a 300 ft long perennial stream and I wished to ease 100 ft on each side of it [60,000 sf/43,560 sf = 1.38 acres]. How would I go about it? What would your office need to do to accept it?</p>	Kurtz	<p>Provision of a full or partial tax exemption for riparian areas would require an ordinance amendment. Landowners would be required to place the land in a perpetual conservation easement to qualify for the exemption, which is not required under the draft Chesapeake Bay Preservation Act amendments. The costs to administer such a program would outweigh the benefit for the limited number of landowners expected to enroll in the program.</p> <p>The County could elect to adopt an amendment to the County tax code to provide for a tax abatement to offset the cost of voluntarily planting the 100-foot buffer. For example, a \$5,000 planting, could reduce the taxable land value from \$100,000 to \$95,000 (a reduction of \$65/year in taxes) for a period of time designated by the County. The abatement would provide an incentive to plant the buffer in areas that are not currently forested, allowing the property owner to increase the value of their land, while receiving a tax incentive to offset the project cost.</p> <p>As for the logistics of creating the conservation easement, the landowner would have to employ an engineer/surveyor to prepare a plat depicting the metes and bounds of the easement on the parcel and prepare a Deed of Open Space Easement (from a County-prepared template) and submit the Deed and Plat to the Department of Building and Development for review and approval as an ESMT (no fee) application. Presumably an RPA delineation would have to have been performed to assure that the ground is within RPA and to confirm the limits of the RPA in the event there may be connected wetlands, and B&D staff would review the delineation as part of the application.</p>	

No.	ISSUE DESCRIPTION	Comment Raised By	STAFF COMMENTS & RECOMMENDATION	BOARD COMMENTS																																								
3)	RPA (100 ft Riparian buffers) functions as a filter for pollutants, prevention of erosion and to store and dissipate floodwaters, under the County’s stormwater management ordinance, BMPs are mandatory for urban/suburban development, what has been the total 10-year cost in local tax dollars to maintain and repair these BMPs? Is there a projection as to the increased costs per year for the next 10 years?	Kurtz	<p>Maintenance of County stormwater BMPs began in FY04. During the first two years, the system was mapped and initial assessments were conducted. Construction work during FY06 and FY07 was devoted to resolving citizen complaints and BMP safety issues. Repair and restoration work on poorly maintained BMPs began in FY08 and, as detailed in the Stormwater Management Strategic Plan, will continue until FY17 at which time the system will be completely restored so that only ongoing maintenance will be required.</p> <table><tr><th colspan="2">Past Expenditures</th><th colspan="2">Projected Expenditures</th></tr><tr><th>Year</th><th>Amount</th><th>Year</th><th>Amount</th></tr><tr><td>FY04</td><td>\$134,000</td><td>FY11</td><td>\$1,685,000</td></tr><tr><td>FY05</td><td>\$73,000</td><td>FY12</td><td>\$1,793,000</td></tr><tr><td>FY06</td><td>\$529,000</td><td>FY13</td><td>\$1,924,000</td></tr><tr><td>FY07</td><td>\$472,000</td><td>FY14</td><td>\$2,072,000</td></tr><tr><td>FY08</td><td>\$1,663,000</td><td>FY15</td><td>\$2,141,000</td></tr><tr><td>FY09</td><td>\$1,290,000</td><td>FY16</td><td>\$2,067,000</td></tr><tr><td>FY10</td><td>\$1,025,000</td><td>FY17</td><td>\$2,103,000</td></tr><tr><td>Past Total</td><td>\$5,186,000</td><td>Projected Total</td><td>\$13,785,000</td></tr></table> <p>Projected expenditures were developed as part of the Stormwater Management Strategic Plan. Adequate funding for BMP repair and restoration, Countywide, is delineated in the Stormwater Management Project, in the FY11-FY16 CIP. Fund requirements were based on current regulations.</p> <p>It is generally considered likely that requirements for BMP maintenance will escalate; however, while the local impact is anticipated to be modest, actual costs cannot be estimated until the more stringent performance requirements have been established by the Commonwealth.</p>	Past Expenditures		Projected Expenditures		Year	Amount	Year	Amount	FY04	\$134,000	FY11	\$1,685,000	FY05	\$73,000	FY12	\$1,793,000	FY06	\$529,000	FY13	\$1,924,000	FY07	\$472,000	FY14	\$2,072,000	FY08	\$1,663,000	FY15	\$2,141,000	FY09	\$1,290,000	FY16	\$2,067,000	FY10	\$1,025,000	FY17	\$2,103,000	Past Total	\$5,186,000	Projected Total	\$13,785,000	
Past Expenditures		Projected Expenditures																																										
Year	Amount	Year	Amount																																									
FY04	\$134,000	FY11	\$1,685,000																																									
FY05	\$73,000	FY12	\$1,793,000																																									
FY06	\$529,000	FY13	\$1,924,000																																									
FY07	\$472,000	FY14	\$2,072,000																																									
FY08	\$1,663,000	FY15	\$2,141,000																																									
FY09	\$1,290,000	FY16	\$2,067,000																																									
FY10	\$1,025,000	FY17	\$2,103,000																																									
Past Total	\$5,186,000	Projected Total	\$13,785,000																																									
4)	What, if any, specific Zoning Ordinance requirements were presented by NVBIA/NAIOP as needing a change to provide flexibility regarding lot size, minimum setbacks and yards, and maximum heights to facilitate a design that avoids the RPA while achieving the permitted density? How quickly would these changes need to be made to reconcile the requirement that the RPA shall not affect density?	Kurtz	NVBIA/NAOIP did not present any specific recommendations regarding changes to the Zoning Ordinance requirements to provide flexibility regarding lot size, minimum setbacks, yards, and building heights to facilitate a design that avoids the RPA while achieving the maximum permitted density. Such changes are beyond the scope of the current amendments being considered, as they were not included in the Resolution of Intent to Amend approved by the Board of Supervisors to initiate the Zoning Ordinance revisions and they were																																									

No.	ISSUE DESCRIPTION	Comment Raised By	STAFF COMMENTS & RECOMMENDATION	BOARD COMMENTS
			<p>not included in the newspaper notice for the Planning Commission or Board of Supervisors public hearings. Therefore, staff recommends that these changes be considered as a separate amendment in the future if it is determined that they are needed.</p> <p>The CBPO does contain an RPA exception process (Section 1222.23) to allow development within the RPA, provided certain criteria are satisfied. In addition, an applicant could request a variance of the Zoning Ordinance requirements from the Board of Zoning Appeals in cases where such requirements, along with the RPA, would restrict development on a parcel. In addition, for Planned Development Zoning Districts, an applicant could request Zoning Ordinance modifications through the legislative process.</p>	
5)	Stream Assessment – the March – July 2009 assessment found that statistically 78% of the County’s stream miles are stressed or severely stressed and would be considered impaired according to the Department of Environmental Quality’s (DEQ) water quality standards. What are those standards?	Kurtz	<p>DEQ assesses water quality every two years as part of their biennial “Water Quality Assessment” (WQA) program (http://www.deq.virginia.gov/wqa). Stream monitoring results are compared to numerical water quality standards to determine if the water quality "measures up.” Those streams that do not meet the minimum standard are listed in the Virginia Water Quality Assessment 305(b)/303(d) Integrated Report.</p> <p>The “water quality standards” are defined in terms of water use. There are six uses that DEQ evaluates. The four most applicable for Loudoun County are: recreation use, aquatic life use, fish consumption and public water supply use. The recreation use is typically determined though bacteria testing of the stream water, the aquatic life use is evaluated through benthic macroinvertebrate stream sampling, fish consumptions through human health related advisories and/or restrictions issued by the Virginia Department of Health (VDH), and public water supply use though water quality and health standards. More specifically, aquatic life use can be determined by the assessment of conventional parameters (dissolved oxygen, pH and temperature), toxic pollutants in the water column (relative to the acute WQ Standards), toxic pollutant analysis of sediments, toxicity testing, nutrient analysis and/or the biological assessment of benthic communities.</p> <p>In the 2008 Water Quality Assessment (WQA) Guidance Manual (http://www.deq.virginia.gov/wqa/pdf/2008ir/2008_WQA_Guidance-Final.pdf), the aquatic life use is evaluated based on Virginia Stream Condition Index (VSCI) scores that are at or above the impairment threshold (60 or above for</p>	

No.	ISSUE DESCRIPTION	Comment Raised By	STAFF COMMENTS & RECOMMENDATION	BOARD COMMENTS
			<p>the VSCI). The 2009 Loudoun County Stream Assessment included benthic assessments at 200 sites conducted in accordance with a DEQ-approved quality assurance plan using the following scoring categories.</p> <div> VSCI Classification Score ----- </div> <div> <42 Severe Stress 42-59 Stress 60-72 Good >73 Excellent </div> <p>DEQ classifies streams with “stress” or “severe stress” as “impaired,” which means that the aquatic life use is not obtained. The 2009 Countywide Stream Assessment data has been submitted to DEQ and will be used in their 2012 WQA cycle.</p>	
6)	Please provide a copy of the General Assembly’s JLARC study on the Chesapeake Bay Preservation Act that was given out in one of the earlier presentations to the Board of Supervisors.	Kurtz	The referenced document was previously provided to the Board in the February 17, 2009 Committee of the Whole meeting packet. A link to the packet is available on the Chesapeake Bay Webpage (www.loudoun.gov/chesapeakebay). Staff will attach a copy of the Executive Summary of the referenced document to the June 15, 2010 Staff Report. Staff can also provide an electronic copy of the full report at the Board’s request.	
7)	Section 10.1-2100(A) of the Code of Virginia states, in part, that, “The protection of the public interest in the Chesapeake Bay, its tributaries, and other state waters and the promotion of the general welfare of the people of the Commonwealth require that:… (iii) the Commonwealth make its resources available to local governing bodies by providing financial and technical assistance, policy guidance, and oversight when requested or otherwise required to carry out and enforce the provisions of this chapter[.]” What financial assistance can Loudoun expect from the Commonwealth when that assistance is “requested or otherwise required to	Miller	There is currently only limited financial assistance available and funding administered by CBLA is only available to the 84 Tidewater localities. In recent years, competitive grant funding was available to localities to provide assistance to low and moderate income homeowners to pay for septic system pump-outs, and to assist with code and ordinance evaluations linked to the Phase III requirements. Total funding available has been \$50,000 annually over the past two years.	

No.	ISSUE DESCRIPTION	Comment Raised By	STAFF COMMENTS & RECOMMENDATION	BOARD COMMENTS
	<p>carry out and enforce the provisions of this chapter”?</p> <p>How much financial assistance have other counties received under the 2100(A) provision?</p>			
8)	<p>Section 10.1-2100(B) of the Code of Virginia states, in full, that, “Local governments have the initiative for planning and for implementing the provisions of this chapter, and the Commonwealth shall act primarily in a supportive role by providing oversight for local governmental programs, by establishing criteria as required by this chapter, and by providing those resources necessary to carry out and enforce the provisions of this chapter.” What resources can Loudoun expect from the Commonwealth “to carry out and enforce the provisions of this chapter”?</p> <p>What resources have other counties received under the 2100(B) provision?</p>	Miller	<p>The Chesapeake Bay Local Assistance (CBLA) can provide technical assistance to County staff in the implementation of the program. This can include direct staff (and Board) training or specific assistance reviewing a particular project or issue. Financial assistance (as noted in Item #7) is currently very limited.</p> <p>In recent years, Counties have received a variety of assistance. The following is a partial list of the assistance provided:</p> <ul style="list-style-type: none"> Grant funding for financial assistance for low/moderate income property owners assist with the cost of septic pump-outs Grant funding to assist with ordinance reviews and/or development consistent with Phase III requirements Technical assistance via site visits for wetland delineations, and perennial flow determinations, as well as riparian buffer advice and training Educational presentations to review boards on RPA exception processes and general Bay Act requirements Assistance with on-site RPA delineation Technical assistance in handling violation/enforcement situations Ordinance reviews Site plan reviews Comprehensive plan assistance Training in proper determination of non-tidal wetlands required for RPA inclusion Development of internal processes for plan review Development of notification and tracking programs 	
9)	<p>Section 10.1-2103(3) of the Code of Virginia states that the CBLAB shall, “Provide financial and technical assistance and advice to local governments and to regional and state agencies concerning aspects of land use and development and water quality protection pursuant to this chapter.” How</p>	Miller	Funding administered by CBLA is only available to the 84 Tidewater localities.	

No.	ISSUE DESCRIPTION	Comment Raised By	STAFF COMMENTS & RECOMMENDATION	BOARD COMMENTS
	much financial assistance can Loudoun expect under the provision?			
10)	<p>Section 10.1-2103(9) of the Code of Virginia states that the CBLAB shall, “Make application for federal funds that may become available under federal acts and to transmit such funds when applicable to any appropriate person.” How much federal funding has CBLAB transmitted under this provision, when, and to whom?</p> <p>Must Loudoun adopt the CBPO to be eligible for funds under the 2103(9) provision?</p>	Miller	<p>A total of \$50,000 in Chesapeake Bay Implementation Grants was allocated for 2009 to Charles City County, City of Colonial Height, Town of Colonial Beach and the Middle Peninsula, Northern Neck and Accomack-Northampton Planning District Commissions. A total of \$50,000 in Chesapeake Bay Implementation Grants was allocated for 2008 to Surry County, New Kent County, Isle of Wight County, Charles City County and the Middle Peninsula and Northern Neck Planning District Commissions.</p> <p>Funding administered by CBLA is only available to the 84 Tidewater localities.</p>	
11)	Section 10.1-2112 of the Code of Virginia states that the CBLAB, “shall, upon request by any county, city or town, review any application for the use or development of land in that county, city or town for consistency with the provisions of this chapter.” Can Loudoun employ this provision to minimize the fiscal impact of processing land-use applications that require attention to the CBPO and, if so, can that be specified staff’s analysis of fiscal impact?	Miller	Yes, the County may forward any application on to CBLA for review. Some smaller jurisdictions send all applications to them for review. While staff recommends sending some applications on referral, staff does not recommend sending all applications to CBLA for review.	
12)	Section 10.1-2115 of the Code of Virginia states, in full, that, “The provisions of this chapter shall not affect vested rights of any landowner under existing law.” Does this mean that uses and structures legally in existence upon the date Loudoun adopts the CBPO will not be affected by the CBPO?	Miller	<p>“Vested rights” law generally provides protection of an owner’s ability to continue on and complete a project that had secured one or more approvals as of the date the new ordinance is adopted. As noted in a 1991 Attorney General Opinion (1991 Op. Atty Gen. Va. 36), "grandfather" provisions generally are used to protect a use lawfully existing on the effective date of a new ordinance and continuing after that date in nonconformance to the ordinance. Additionally, 9VAC10-20-150 supports the protection of existing structures by providing that “Local governments may permit the continued use, but not necessarily the expansion, of any structure in existence on the date of local program adoption. Local governments may establish an administrative review procedure to waive or modify the criteria of this part for structures on legal nonconforming lots or</p>	

No.		ISSUE DESCRIPTION	Comment Raised By	STAFF COMMENTS & RECOMMENDATION	BOARD COMMENTS
				parcels ...” Thus, in the draft Ordinance, existing legal structures are deemed nonconforming uses and may continue and be maintained unaffected by the CBPO (Section 1222.10) .	
13)		9VAC10-20-50 of the Chesapeake Bay Preservation Area Designation and Management Regulations states, in part, “Counties and towns are encouraged to cooperate in the development of their local programs.” Which Loudoun towns has the county encouraged to cooperate in the development of our local program?	Miller	Loudoun Towns have not been actively encouraged to cooperate in the development of the County’s program to date.	
14)		9VAC10-20-80(B)(2) of the Chesapeake Bay Preservation Area Designation and Management Regulations requires that the RPA include, “Nontidal wetlands connected by surface flow and contiguous to tidal wetlands or water bodies with perennial flow.” If not all such wetlands are incorporated into the land designated as the RPA when Loudoun adopts the CBPO, can the CBLAB, another state agency, or any party seek legally to compel the inclusion of such wetlands into the RPA against Loudoun’s objection? If not all Section 80(B)(2) wetlands are included in the RPA, is Loudoun in violation of the Bay Act and, if so, what exposure to legal action arises for Loudoun?	Miller	CBLA has provided guidance that not all wetlands have to be specifically mapped or delineated at the time of adoption. The addition of wetland areas to the map after site-specific studies are performed is in keeping with the intent of the regulations. There is no entity that can compel Loudoun to map all wetlands prior to adoption of a map and the CBPO.	
15)		9VAC10-20-90(C)(5) of the Chesapeake Bay Preservation Area Designation and Management Regulations states, in part, that, “The extent of the Resource Management Area designation should always be based on the prevalence and relation of Resource Management Area land types and other appropriate land areas to water quality protection.” Why is all of Loudoun’s unincorporated space outside the RPA drafted for inclusion in the RMA?	Miller	This issue was addressed in the Planning Commission Matrix (Item #7) as follows: The Chesapeake Bay Preservation Act regulations outline specific areas that localities must designate as RMA (floodplains, highly erodible soils including steep slopes, highly permeable soils, nontidal wetlands not included in the RPA and any other lands considered by the local government to be necessary to protect the quality of state waters). Given the prevalence of these features, the desire to provide maximum water quality protection, and the difficulty of administering a feature-based RMA, staff recommended the designation of a Countywide RMA similar to Prince William and Fairfax Counties. A Countywide RMA also best addresses the issue of nonpoint source pollution, one of the most significant threats to water quality. The Board of Supervisors supported this recommendation during the approval of the Chesapeake Bay Preservation Act Work Program.	

No.	ISSUE DESCRIPTION	Comment Raised By	STAFF	BOARD COMMENTS
			COMMENTS & RECOMMENDATION	
16)	9VAC10-20-100(B)(3) of the Chesapeake Bay Preservation Area Designation and Management Regulations states that areas where “Housing density is equal to or greater than four dwelling units per acre” may be designated as IDAs. Can that density be measured within any given set of contiguous parcels, or is it as per the density on a site plan, or is it measured some other way?	Miller	The IDA is designated within a specific geographic area, similar to the RMA, based on existing conditions at the time of adoption. IDAs cannot be designated based upon proposed density. Technically, under the state criteria, if, as of the date of adoption of the Ordinance, a given set of existing, contiguous, developed parcels where little of the natural environment remains fulfilled one of the 3 criteria of 9VAC10-20-100(B)(3) (50% impervious surface/ or public water and sewer or constructed stormwater system/ or density greater than 4 dwelling units per acre) for the contiguous area taken as a whole, then such contiguous area could be designated as an IDA.	
17)	9VAC10-20-105(ii) of the Chesapeake Bay Preservation Area Designation and Management Regulations states, in part, that, “Resource Protection Area boundaries are adjusted, as necessary, on the site, based on this evaluation of the site. Local governments may accomplish this by either conducting the site evaluations themselves or requiring the person applying to use or develop the site to conduct the evaluation and submit the required information for review.” Does this provision authorize Loudoun to relieve some applicants of the costs of RPA delineation and associated requirements by conducting the necessary surveys, analyses, etc, itself?	Miller	<p>The Planning Commission supported staff’s recommendation that a staff delineation may be conducted in conjunction with a Minor Water Quality Impact Assessment (WQIA) for disturbances of 2,500 sf or less in the landward 50-feet of the RPA. This relieves the requirement for a consultant delineation to be submitted in conjunction with administrative waivers and RPA exceptions within the landward 50-feet of the buffer and provides an incentive to locate structures in this area, as opposed to the seaward 50-feet of the buffer.</p> <p>The Board may provide additional guidance regarding circumstances where a staff delineation is preferred; however, it should be noted that the RPA delineation is only required in conjunction with projects that disturb 2,500 sf or more, which tend to be substantial improvements (such as construction of a dwelling); therefore, the cost of the RPA delineation will often encompass a small percentage of the total project cost.</p>	
18)	9VAC10-20-110(A) of the Chesapeake Bay Preservation Area Designation and Management Regulations states, in part, that the purpose of the Bay Act includes, among others, each of these objectives, “prevent a net increase in nonpoint source pollution from new development and development on previously developed land where the runoff was treated by a water quality protection best management practice, achieve a 10% reduction in nonpoint source pollution from development on previously developed land where the runoff was not treated by one or more water quality best management practices[.]” Is pollution from nitrogen and phosphorous contained in fertilizers typically used by homeowners within the ambit of the “nonpoint source pollution” referred to by this provision?	Miller	Yes, lawn fertilizer is a component of nonpoint source pollution. The criteria referenced are specific to stormwater management requirements associated with land development applications. However, the 100-foot vegetated buffer removes 75% of the sediment and 40% of the nutrients that drain through it; therefore, the buffer is designed to filter substantial amounts of nitrogen and phosphorus from runoff originated from fertilized areas.	

No.	ISSUE DESCRIPTION	Comment Raised By	STAFF	BOARD COMMENTS
			COMMENTS & RECOMMENDATION	
19)	9VAC10-20-120 of the Chesapeake Bay Preservation Area Designation and Management Regulations recites the eleven “General performance criteria” required by the Bay Act. What is Loudoun’s legal authority for adopting fewer than all eleven criteria?	Miller	CBLA has advised that because participation in the program is voluntary, Loudoun does not have to adopt all eleven criteria.	
20)	9VAC10-20-130(2)(ii) of the Chesapeake Bay Preservation Area Designation and Management Regulations exempts “passive recreation facilities such as boardwalks, trails and pathways” from the RPA criteria. Does a path with an impervious surface, like a bicycle path, fall within this exemption?	Miller	A path with an impervious surface can fall within the exemption. More specific guidance regarding paths in the RPA is provided in the Riparian Buffers Modification and Mitigation Guidance Manual.	
21)	9VAC10-20-130(3) of the Chesapeake Bay Preservation Area Designation and Management Regulations states, in part, that, “a 100-foot wide buffer area of vegetation that is effective in retarding runoff, preventing erosion, and filtering nonpoint source pollution from shall be retained if present and established where it does not exist.” What triggers the requirement to establish this buffer where it does not exist, and what does this requirement impose upon adjacent landowners when it is triggered on a parcel that does not extend 100 feet from the defining perennial water body?	Miller	The requirement to establish the buffer arises when the area within the buffer is proposed to be converted to other uses, i.e., in conjunction with new development (e.g., Subdivision Plans, Construction Plans, Site Plans) as provided in Section 1222.14(e) of the CBPO. The planting requirement only applies to the property that is the subject of the application; it does not apply to adjacent parcels.	
22)	9VAC10-20-130(6) of the Chesapeake Bay Preservation Area Designation and Management Regulations requires a water quality impact assessment for proposed development within the RPA. 130(6)(a) states, in part, that, “The specific content and procedures for the water quality impact assessment shall be established by each local government,” 130(6)(b) states, in full, that, “The water quality impact assessment shall be of sufficient specificity to demonstrate compliance with the criteria of the local program.” Would Loudoun be able to establish in its adopted version of the CBPO that specific uses, such as a dog house, are inherently known to yield a water quality impact assessment that demonstrates compliance with the criteria of its own local program, and thereby authorize the applicant to submit a statement that their proposed development is one of those	Miller	<p>A Water Quality Impact Assessment (WQIA) is required for any disturbance, development, or redevelopment in the RPA. Staff can provide sample WQIA text to assist in the submission of the WQIA for specific uses, such as doghouses.</p> <p>In addition, please see Issue #59. Clarification regarding zoning permit requirements for detached accessory structures such as playhouses, doghouses, and swing sets will be provided at the June 15, 2010 Committee of the Whole.</p>	

No.	ISSUE DESCRIPTION	Comment Raised By	STAFF COMMENTS & RECOMMENDATION	BOARD COMMENTS
	specified uses, with such statement being sufficient as a matter of law to meet this section’s requirement for a water quality impact assessment?			
23)	9VAC10-20-150(C)(3) of the Chesapeake Bay Preservation Area Designation and Management Regulations states, in full, that, “Exceptions to other provisions of this part may be granted, provided that: a. Exceptions to the criteria shall be the minimum necessary to afford relief; and b. Reasonable and appropriate conditions upon any exception granted shall be imposed, as necessary, so that the purpose and intent of the Act is preserved. “ This is pretty broad. Could Loudoun designate specific uses with levels of impact known to be inherently minimal, such as a dog house, as designated exceptions that are not subject to parts or all of the CBPO?	Miller	<p>Since “exception” under the ordinance is a process, to designate a specific use as being not subject to parts or all of the CBPO would be to designate it as an exemption. Generally speaking, based on direction provided by the BOS, staff has limited the specific exemptions and waivers provided for in the Ordinance to those items identified in the enabling regulations. While uses shown by empirical data to have no environmental adverse impacts upon water bodies could be added to the list of exemptions, staff notes that environmental improvements and uses with minimal impact are generally permitted by or exempted from the regulations. Although Loudoun could designate additional specific uses, such as doghouses, as exempt from the Ordinance requirements, it is noted that doghouses are not listed among the exemptions identified in the Chesapeake Bay Preservation Area Designation and Management Regulations. Furthermore, the “Nonconforming Structures and Uses” guidance issued by the Virginia Department of Conservation and Recreation (DCR) clarifies that accessory structures are not permitted within the RPA without the approval an RPA exception.</p> <p>In addition, please see Issue #59. Clarification regarding zoning permit requirements for detached accessory structures such as playhouses, doghouses, and swing sets will be provided at the June 15, 2010 Committee of the Whole.</p>	
24)	9VAC10-20-215 of the Chesapeake Bay Preservation Area Designation and Management Regulations states, in part, that, “The department will prepare a manual to provide guidance to assist local governments in the preparation of local programs in order to implement the Act and this chapter.” Where can I get a copy of this manual?	Miller	The Local Assistance Manual no longer exists. It has been replaced by the CBLA guidance documents, found on the CBLA website at: http://www.dcr.virginia.gov/chesapeake_bay_local_assistance/guid.shtml .	
25)	9VAC10-20-250 and 260 of the Chesapeake Bay Preservation Area Designation and Management Regulations authorize the CBLAB to take administrative and legal action to compel compliance by a local government with the Act. What actions has CBLAB taken to date under the authority of these sections?	Miller	In a small number of instances, the CBLAB has formally requested the Office of the Attorney General to take actions necessary to ensure compliance with the Bay Act and the Regulations.	
26)	Section 1222.09(a) of the Chesapeake Bay Preservation Ordinance (CBPO) calls for an application for a locational	Miller	Yes, there would be no basis for denial of the Locational Clearance in that instance. The Locational Clearance application is necessary to ensure	

No.	ISSUE DESCRIPTION	Comment Raised By	STAFF	BOARD COMMENTS
			COMMENTS & RECOMMENDATION	
	clearance for land disturbing activity below 2,500 square feet on a parcel containing RPA. If a proper application is submitted showing that no part of the activity will disturb land within the RPA, is approval of the application by the Administrator mandatory?		compliance with the RPA requirements during the Zoning Permit review on properties containing RPA. The applicant obtains an aerial photo map with several environmental layers identified from the Office of Mapping (currently available for \$12) and sketches the location of the required elements, including the proposed improvements and the limits of clearing and grading. The map is then reviewed by staff in conjunction with the Zoning Permit to determine whether or not the proposed improvements are within the RPA and if a grading permit is required. The Locational Clearance process is currently used to evaluate compliance with Steep Slopes, the Mountainside Development Overlay District, and the Limestone Overlay District. The Chesapeake Bay clearance would be streamlined into this existing review.	
27)	Section 1222.09(b) states that a Section 1222.08 delineation shall be required “if applicable.” Are there any circumstances where the proposed activity does not disturb land in the RPA that would trigger applicability of this delineation requirement and, if so, what are they?	Miller	If the proposed activity actually required land disturbing activity of greater than 2,500 sf, an RPA delineation could be required in conjunction with the required Grading Permit if a stream or water body with the potential to be characterized as RPA is present within the limits of land disturbing activity or within 200 feet of the limits of land disturbing activity (the area identified as “RMA/Possible RPA” identified on the “Draft RPA Screening Tool”) as identified in Section 1222.08(a).	
28)	Section 1222.11(b) exempts land disturbing activity below 2,500 square feet in the RMA from the provisions of Chapter 1222 “provided that a Locational Clearance is approved pursuant to 1222.09.” The language of Part 09 states that such Locational Clearances are only required when a subject parcel includes RPA. For parcels that contain no RPA, does the Part 11(b) exemption require a Locational Clearance and, if not, can this be made explicit by adding the words, “unless the parcel where the activity is proposed contains no RPA.”?	Miller	The intent of Section 1222.11(b) is to ensure that proposed land disturbing activity of 2,500 sf or less within the RMA is reviewed for compliance with the RPA requirements on properties that contain RPA; therefore, staff supports the suggested amendment, or the addition of the phrase “where required” at the end of Section 1222.11(b).	
29)	Section 1222.18(A) requires a Major WQIA for land disturbing activity that encroaches into the seaward 50 feet of the Buffer Area. Can an exception to this requirement be made for specific uses and, if so, can this be conditioned on the principle use of the land, the percentage of the parcel containing RPA, the number of square feet of RPA on the parcel, the number of square feet of RMA on the parcel, other physical characteristics of the parcel, any or all of the foregoing, or if the activity is a dog house?	Miller	9VAC10-20-130.6.a states that “The specific content and procedures for the water quality impact assessment shall be established by each local government,” so these requirements may be modified. The requirements have been structured such that an additional level of detail would be required for improvements proposed within the seaward 50-feet in order to pinpoint the limits of land disturbing activity in relation to the location of perennial water bodies, connected wetlands, and the 100-foot buffer. This also provides an incentive to locate structures outside of the seaward 50-feet of the 100-foot buffer adjacent to perennial streams and water bodies consistent with the purpose of the	

No.	ISSUE DESCRIPTION	Comment Raised By	STAFF COMMENTS & RECOMMENDATION	BOARD COMMENTS
			ordinance. Given the inherent flexibility to locate small structures outside of the seaward 50-feet of the buffer, and the increased sensitivity of the land proximate to perennial streams and water bodies, additional accommodations to locate structures within the seaward 50-feet may not be desirable. This is particularly noteworthy in cases where Major Floodplain, which would otherwise limit development (e.g. principal and accessory structures), is present within 50-feet of perennial streams. The characteristics noted (e.g., the proposed use of the land, the percentage of the parcel containing RPA, the number of square feet of RPA on the parcel, the number of square feet of RMA on the parcel, and other physical characteristics of the parcel) would be primary considerations in the review and approval of administrative waivers and RPA exceptions for proposed improvements within the RPA, independent of the Water Quality Impact Assessment.	
30)	Section 1222.20 and Section 1222.23 permit waivers for some activities within the RPA, with conditions. One of the conditions is the submission of a Water Quality Impact Assessment, which cannot be waived. Can you provide sample acceptable WQIAs for <i>de minimis</i> activities like, say, a dog house?	Miller	<p>The waivers identified in Section 1222.20 and 1222.23 do not apply to detached accessory structures (Ref: 9VAC10-20-150(C)(4)) (an RPA exception would be required). The required elements for the WQIA are outlined in Section 7.501 of Chapter 7 of the Facilities Standards Manual amendments. Minor WQIAs can be submitted by the applicant. Staff can provide sample language to support the development of the Minor WQIA. The Planning Commission also requested that staff prepare interactive templates to help support the development of the Minor WQIA.</p> <p>In addition, please see Issue #59. Clarification regarding zoning permit requirements for detached accessory structures such as playhouses, doghouses, and swing sets will be provided at the June 15, 2010 Committee of the Whole.</p>	
31)	What obligations, if any, are imposed by the CBPO when a resident plans a land disturbing activity of less than 2,500 square feet on a residential parcel that contains no RPA?	Miller	There would be no related obligations associated with land disturbing activity less than 2,500 sf on a residential parcel that contains no RPA under the draft CBPO.	
32)	We have heard that Fairfax has effectively waived all application of their CBPO for structures that disturb less than 150 square feet. Is this true and, if so, how do they get away with it and can we do the same thing?	Miller	<p>This is addressed in Item #11 of the Planning Commission Matrix as follows:</p> <p>Sheds are not listed as an exempt use or a permitted use in the RPA in the Fairfax County Chesapeake Bay Ordinance. A brochure entitled “Understanding the Chesapeake Bay Preservation Ordinance Amendments, Important information for Fairfax County homeowners” published in June 2005 states that: “The administrative waiver for minor additions is not available for construction of detached accessory structures such as sheds. Accessory structures are specifically prohibited in the state regulations from consideration</p>	

No.	ISSUE DESCRIPTION	Comment Raised By	STAFF COMMENTS & RECOMMENDATION	BOARD COMMENTS
			as minor additions. However, the construction of small sheds that do not require a building permit (the current limit under the Virginia Uniform Statewide Building Code is 150 sq.ft. of building area) constructed over existing maintained grass lawns can be considered to be an inconsequential modification to an existing use and may be permitted. As a general rule, sheds should only be located in RPAs when there are no reasonable alternatives for locating the shed outside of the RPA.” Notably, the brochure clarifies that the state regulations prohibit the construction of sheds in the RPA. Furthermore, it is noted that this informal approach is dictated primarily by the fact that Fairfax County does not have an existing administrative mechanism to review projects that do not require a Building Permit (e.g., projects less than 150 square feet); therefore, sheds are often constructed without local review. By contrast, Loudoun County has an existing administrative mechanism to review such structures in that our Zoning Ordinance requires a Zoning Permit application for such structures, which is reviewed for consistency with all locally adopted ordinances.	
33)	What is the likely impact on Loudoun’s supply of drinking water if no steps are taken to protect it from nonpoint source pollution at the local level?	Miller	The impacts of nonpoint source pollution are most commonly associated with health hazards to aquatic life, animals, and people that come in direct contact with polluted surface water. However, nonpoint source pollution can also affect drinking water sources from which the potable water supply is drawn, and increase drinking water treatment costs. For example, turbidity (suspended sediment) adds real costs to the treatment of surface water supplies due to the fact that the turbidity must be virtually eliminated for effective disinfection to occur. The suspended particles in turbid water also provide attachment sites for other contaminants such as heavy metals such as cadmium, mercury and lead, and toxic organic contaminants such as PCBs (polychlorinated biphenyls – coolants), PAHs (polycyclic aromatic hydrocarbons-from fossil fuels) and many pesticides. Public and private wells that are not subject to routine monitoring and chemical treatment can also become polluted with nitrates due to leaching septic systems or the misuse of fertilizer, particularly in areas located proximate to shallow water wells. Staff recommends that the Board request a briefing on this matter from Loudoun Water if additional information is needed.	
34)	Benthic studies indicate that 78% of Loudoun’s streams may be stressed or severely stressed. What has this percentage been in past years?	Miller	There has not been a previous comparable comprehensive study conducted in Loudoun County. There have been limited citizen stream monitoring activities since 1996 as reported by Loudoun Watershed Watch. The data generally indicates similar or declining water quality. Across the Chesapeake Bay, the benthic data collected at over 10,000 locations is limited to the period 2000-to-	

No.	ISSUE DESCRIPTION	Comment Raised By	STAFF	BOARD COMMENTS
			COMMENTS & RECOMMENDATION	
			present. The Bay program has not been able to discern a trend from these benthic data because this indicator is relatively new, and it has not been in use long enough to characterize a long-term trend. (http://www.chesapeakebay.net/status_streamhealth.aspx?menuitem=50423)	
35)	What is the probable future state of a stressed stream or perennial pond under current land-use practices in Loudoun with respect to fitness for wildlife, quantity of algae, detectable odors, riparian vegetation, water color and clarity, etc?	Miller	A stressed stream or perennial pond would not be expected to improve and may continue to degrade under current land-use practices. The number of stream impairments identified in Loudoun in DEQ’s biannual Water Quality Assessment continues to increase (most recently from 134 miles in 2006 to 160 miles in 2008, a 20% increase) as more streams are assessed despite the fact that the County has implemented mandatory erosion and sediment control and stormwater management requirements. Additional strategies are necessary to protect and restore water quality, as outlined in the Countywide Watershed Management Plan. The implementation of stream buffers to improve water quality has been identified as a top priority by both the Watershed Management Stakeholder Steering Committee and the Water Resources Technical Advisory Committee.	
36)	What is the likely all-in cost that will be added by adoption of the CBPO for a homeowner wishing to do each of the following on an individual basis: Install a dog house on residential property not in the RPA? Install a dog house on residential property in the landward 50’ of an RPA buffer? Install a dog house on residential property in the seaward 50’ of an RPA buffer?	Miller	Generally speaking, the cost to locate structures within the RPA increases with proximity to the perennial stream and connected wetlands. A detached accessory structure located on residential property outside the RPA on a property that does not contain RPA would not require any additional cost. A detached accessory structure located on a residential propertyoutside the RPA on a property that contains RPA in some other location on that property would require a Locational Clearance at the time of zoning permit (if a Zoning Permit is required – see Item #59). The sketch map required for the Locational Clearance currently costs \$12. A detached accessory structure located in the RPA would require an exception: If it was proposed to be located in the landward 50-feet of the buffer, staff could perform the RPA delineation and the applicant could submit all other required information without assistance from a consultant or engineer. There would be no additional costs except for any applications fees as established by the Board. If it was proposed to be located in the seaward 50-feet of the buffer, a consultant	

No.	ISSUE DESCRIPTION	Comment Raised By	STAFF COMMENTS & RECOMMENDATION	BOARD COMMENTS								
			RPA delineation and tree cover inventory and an engineered plan would be required. The estimated cost on a ¼ - ½ acre lot would be \$2,300 - \$6,550. Staff notes that the costs for this option may act as a disincentive for property owners to disturb the seaward 50-feet of the RPA, thus helping preserve the buffer and fulfilling the intent of the amendments. Staff also notes that in many cases, the seaward 50-feet is encumbered by other restrictions, including the FOD regulations, which strictly prohibit any structures in the Major Floodplain.									
37)	What percentage of suburban residents live on parcels that contain RPA?	Miller	<p>RPA Parcels – Percent of Suburban Policy Area Demographics, 2010 Estimates</p> <table><tr><td></td><td>Percent</td></tr><tr><td>Housing Units</td><td>7.8</td></tr><tr><td>Households</td><td>7.5</td></tr><tr><td>Population</td><td>6.6</td></tr></table> <p>Source: Loudoun County Department of Management and Financial Services June 10, 2010. Estimates based on 2000 U.S. Census data plus building permits issued through 2009. Only based on parcels with 5% or more of their land in the RPA.</p>		Percent	Housing Units	7.8	Households	7.5	Population	6.6	
	Percent											
Housing Units	7.8											
Households	7.5											
Population	6.6											
38)	What percentage of suburban residents live on parcels that are more than 25% composed of RPA?	Miller	<p>Staff prepared an analysis of the 8,800 County parcels containing mapped RPA (among suburban, transition, and rural properties) and identified the following statistics related to % RPA:</p> <ul style="list-style-type: none">61% have <25% RPA24% have between 25% and 50% RPA9% have between 50% and 75% RPA6% have >75% RPA <p>Given time constraints and the complexity that such an analysis would require, staff did not have an opportunity to further qualify these statistics related only to suburban residents.</p> <p>Staff also prepared an analysis of the 86,000 total County parcels and identified the following statistics related to % RPA:</p>									

No.	ISSUE DESCRIPTION	Comment Raised By	STAFF COMMENTS & RECOMMENDATION	BOARD COMMENTS
			<ul style="list-style-type: none"> 6 % have <25% RPA 2.5 % have between 25% and 50% RPA < 1% have between 50% and 75% RPA < 1% have >75% RPA	
39)	What examples can you provide of legal uses commonly found on residential parcels that disturb more than 2,500 square feet and that are added after the first homeowner takes title to the land and a fully constructed residence?	Miller	The principal examples of residential uses that would disturb more than 2,500 sf subsequent to construction of the principal residence are large additions, tennis courts, and some swimming pools with associated bath houses.	
40)	If the CBPO had been in effect before the South Riding Proprietary began development of the Skate Park adjacent to the Dulles South Multipurpose Center, what would the likely total additional cost of the project have been (assuming no exceptions unique to governmental property apply)?	Miller	Assuming that the skate park project was to be constructed by a private entity and that land disturbing activity >2,500 sf was required, the additional cost would be the cost to obtain a grading permit due to the reduced erosion and sediment control threshold. It appears that the skate park lies outside of the RPA and the “RMA/Possible RPA” and would not have been otherwise affected.	
41)	Can Loudoun provide total or partial exemption or waiver for uses that are environmentally beneficial?	Miller	Generally speaking, based on direction provided by the BOS, staff has limited the specific exemptions and waivers provided for in the Ordinance to those items identified in the enabling regulations. While uses shown by empirical data to have environmental benefits and no environmental adverse impacts upon water bodies could be added to the list of exemptions, staff notes that environmental improvements and uses with minimal impact are generally permitted by or exempted from the regulations. Staff requests additional information related to the referenced uses.	
42)	What evidence or other scientific reason is there to believe that adoption of the CBPO will reduce the amount of perennial water bodies in Loudoun that are stressed?	Miller	<p>Preservation and establishment of riparian buffers is widely recognized as the most cost-effective and efficient means of preserving and improving water quality. 9VAC10-20-130.3.a states that the 100-foot buffer “achieves a 75% reduction of sediments and a 40% reduction of nutrients.” Furthermore, RPA wetlands and the vegetation within the 100-foot buffer also prevent erosion, store and dissipate floodwaters, provide habitat for a variety of plants and animals, provide shade to reduce stream temperature and increase dissolved oxygen, and supply organic matter necessary to sustain aquatic habitat.</p> <p>The CBPO preserves RPA wetlands and vegetated buffers within sensitive areas immediately adjacent to perennial streams and water bodies and connected wetlands that reduce the potential for any further degradation of water quality and ensures that the benefits afforded by the RPA wetlands and the buffer will be sustained. The CBPO also requires the RPA buffer to be reforested in conjunction with future development proposals to improve water quality and</p>	

No.	ISSUE DESCRIPTION	Comment Raised By	STAFF COMMENTS & RECOMMENDATION	BOARD COMMENTS
			<p>offset potential impacts associated with new development.</p> <p>In addition to the benefits afforded by preserving RPA wetlands and preserving and enhancing vegetated buffers, the CBPO also benefits water quality as follows:</p> <ul style="list-style-type: none"> ▪ The reduced erosion and sediment control threshold provides improved control and reduces the potential for sediment to be discharged into local streams. ▪ The septic pump-out provisions reduce the potential for system failures and discharge of nitrates into groundwater. ▪ The reserve drainfield requirement formalizes the practice of providing a back-up site that can be used to correct failed systems detrimental to water quality. ▪ The three general performance criteria (minimize land disturbance, preserve indigenous vegetation, and minimize impervious cover) ensure that consideration is given to these issues when evaluating land development applications to reduce the negative impacts of denuding and paving land. ▪ The RPA includes connected wetlands and required buffers and affords Bay Act localities an opportunity to regulate impacts to these features. Currently, impacts to these wetlands, which are imperative to local water quality, in non-Bay Act localities are subject only to Federal and State oversight and buffers surrounding these features are not required. ▪ The minimum lot size requirements will avoid the potential for future conflicts between proposed uses and the RPA wetlands and the buffer. ▪ The required buffers filter nutrients from runoff from fertilized land, for which there are no other regulatory controls. ▪ The RPA wetlands and buffers and the reduced erosion and sediment control threshold will assist the County with implementation of the MS4 permitting requirement to address benthic TMDLs. There are currently two benthic TMDLs within the MS4 permit area (on Goose Creek and Bull Run). The County is responsible for proposing improvements to the MS4 program (such as sediment reductions) to address the pollutant identified in the TMDL (benthic impairments). 	
43)	What is the risk, if any, of replacing indigenous vegetation	Miller	Existing County policies encourage the protection and planting of indigenous	

No.	ISSUE DESCRIPTION	Comment Raised By	STAFF COMMENTS & RECOMMENDATION	BOARD COMMENTS
	with non-indigenous vegetation?		<p>vegetation. Indigenous plants, unlike exotic species, have a close association with the insects and animal life of the region and are critical to ecosystem health in that they help ensure that native insects and animals survive and thrive.</p> <p>Alien plants, also known as exotic, non-native, or non-indigenous plants, are species intentionally or accidentally introduced by human activity into a region in which they did not evolve. Many alien species are well known and economically important, such as wheat, soybeans, and tulips. Alien species often do not become established outside of cultivation and, if they do, they usually have few impacts on natural communities.</p> <p>Invasive alien plants, however, escape cultivation and become agricultural pests, infest lawns as weeds, displace native plant species, reduce wildlife habitat, and alter ecosystem processes. Invasive alien species also exact an economic toll from human economies that depend on resources and services provided by healthy ecosystems. Examples include clogging of waterways and increased costs to maintain powerline rights-of-way. Invasive plants also threaten natural areas, parks, and forests. If left unchecked, an infestation may severely alter a site's natural, economic, aesthetic, and other cultural values and result in costly eradication measures.</p> <p>Indigenous plants provide food and shelter for local wildlife, do not have invasive tendencies, and are well-adapted for Northern Virginia.</p> <p>More information regarding invasive plants can be found on the State website: http://www.dcr.virginia.gov/natural_heritage/invspinfo.shtml</p>	
44)	Is it true that riparian vegetation buffers filter nonpoint source pollution from the fertilizers typically used by homeowners and, if so, is there evidence to suggest that preservation of such buffers is or can be adequate to avoid the need for such fertilizers to be regulated any more than they currently are?	Miller	<p>The 100-foot buffer removes 75% of sediment and 40% of nutrients from runoff, including runoff from fertilized land, and is currently the best available regulatory tool for reducing nonpoint source pollution resulting from fertilizer application.</p> <p>The Loudoun County Extension Office coordinates a voluntary Urban Nutrient Management Program, whereby residential property owners can obtain soil test results to determine how much fertilizer to apply on their property. While the buffer can reduce fertilizer from runoff, reducing the amount of fertilizer applied to the minimum necessary to sustain the desired vegetation is imperative to comprehensively addressing nonpoint source pollution from</p>	

No.	ISSUE DESCRIPTION	Comment Raised By	STAFF COMMENTS & RECOMMENDATION	BOARD COMMENTS
			<p>fertilizers.</p> <p>Delegate Plum introduced fertilizer legislation during the last General Assembly Session that was forwarded to the next Session, indicating that dialogue related to the need for additional legislation is likely to continue.</p>	
45)	If a Loudoun habitat’s assessed condition degrades from Suboptimal to Poor, what would be the likely effect on nearby residential property values?	Miller	<p>The habitat assessment process involves rating each of the parameters on a 0 – 20 scale within four categories (Scores increase as habitat quality increases).</p> <ul style="list-style-type: none"> • Poor: 0-5 • Marginal: 6-10 • Suboptimal: 11-15 • Optimal: 16-20 <p>A shift from Suboptimal to Poor would indicate a noticeable decline in the physical characteristics of the stream - channel cross section, amount of sediment on the stream bed, obstructions, water depth and velocity, bank stability, and vegetation on the bank and adjacent to the stream – likely to be undesirable in relation to both stream stability and property value. Such a change would be subject to confirmation based upon market sales of the affected properties.</p>	
46)	If Loudoun’s current sources of drinking water were polluted to the point where the practices now in place could not make it fit to drink, what would be the probable remedy and how much would that cost?	Miller	It is staff’s understanding that our drinking water will never become untreatable as a water supply under normal conditions. The limits of conventional water treatment technology would only be expected to be exceeded due to a catastrophic event. Staff recommends that the Board request a briefing on this matter from Loudoun Water if additional information is needed.	
47)	What is the impact on homeowners in suburban communities such as Countryside, Cascades, Dominion Station, etc. Do people really have to go through an application process for a dog house, swing set, etc.?	McGimsey	<p>Generally speaking, the impacts of the CBPO on proposed projects increase with proximity to perennial water bodies.</p> <p>The principal impact in suburban communities is related to construction of new improvements in the mapped RPA. Proposed land disturbing activity, development, or redevelopment within the RPA associated with residential improvements typically requires the submission of a waiver (e.g., decks and additions of 2,500 sf or less in the landward 50-feet of the RPA) or an RPA exception (e.g., decks and additions larger than 2,500 sf or located in the seaward 50-feet, and detached accessory structures).</p> <p>Staff notes that clarification regarding zoning permit requirements for detached</p>	

No.	ISSUE DESCRIPTION	Comment Raised By	STAFF COMMENTS & RECOMMENDATION	BOARD COMMENTS
			<p>accessory structures such as playhouses, doghouses, and swing sets will be provided at the June 15, 2010 Committee of the Whole.</p> <p>Waivers/Exceptions:</p> <p>Staff can perform the RPA delineation and the applicant can submit all other required information, without assistance from a consultant or engineer for administrative waivers and exceptions that propose a disturbance <2,500 sf in the landward 50-feet of the buffer.</p> <p>A consultant RPA delineation and tree cover inventory and an engineered plan is required for exceptions that propose a disturbance >2,500 sf or that encroach into the seaward 50 feet of the buffer. The estimated cost on a ¼ - ½ acre lot would be \$2,300 - \$6,550. Staff notes that the costs for this option may act as a disincentive for property owners to disturb the seaward 50-feet of the RPA, thus helping preserve the buffer and fulfilling the intent of the amendments.</p> <p>Other Requirements:</p> <p>A Locational Clearance (see Item #26 and Item #36) is required for land disturbing activity of 2,500 sf or less on properties containing mapped RPA to ensure that the RPA requirements are met. The property map required for the Locational Clearance currently costs \$12.</p> <p>Improvements that require land disturbing activity of 2,500 sf or less located entirely within the “RMA/Possible RPA” or the “RMA” would not be affected.</p> <p>Land disturbing activity greater than 2,500 sf in the “RPA,” “RMA/Possible RPA” or the “RMA” would require a Grading Permit. The Grading Permit fee is \$704 plus \$115 per disturbed acre (or portion thereof). If the land disturbing activity is located within 100 feet of the RPA, an engineered grading plan would also be required. The estimated cost of the engineered grading plan is \$300-\$1200).</p> <p>An RPA delineation is required for any proposed disturbance in the RPA and <u>may</u> be required for proposed disturbances greater than 2,500 sf in the “RMA/Possible RPA.” The RPA delineation may be waived for single family</p>	

No.	ISSUE DESCRIPTION	Comment Raised By	STAFF COMMENTS & RECOMMENDATION	BOARD COMMENTS
			detached dwellings, associated accessory structures, or structures intended for agricultural use that are not located within 200 feet of a stream or water body with the potential to be characterized as RPA (e.g., improvements located within 200-feet of an ephemeral or intermittent stream that does not flow year-round). The consultant RPA delineation is estimated to cost between \$1,700 and \$4,350 for a ¼ to 1/2 acre property.	
48)	What is the impact on approved developments that have not been built yet, such as Moorefield Station? Is this ordinance compatible with high density, mixed use development, particularly transit-oriented development?	McGimsey	The Planning Commission discussed the impacts to the Moorefield Station project during their review of the draft amendments. The principal concern associated with this project centers on two stormwater management ponds that are proposed in line with perennial streams and relates to whether or not they would qualify as a permitted use in the RPA and whether or not they would be buffered. The draft grandfathering policy would require the Moorefield Station applicant to delineate the RPA and to comply with the CBPO to the “greatest extent possible,” provided that compliance would not preclude fulfillment of a proffer (e.g., substantial conformance with the CDP), reduce overall density, or require relocation of facilities to such an extent that an additional legislative application (e.g., ZCPA) would be required.	
49)	What is the impact on landowners in the Broad Run Farms community and individual landowners?	McGimsey	Staff has analyzed the impacts in Broad Run Farms. While 44% of the mapped RPA falls within the Major Floodplain across the County as a whole, a total of 85% of the RPA in Broad Run Farms falls within Major Floodplain due to the location of the subdivision proximate to Broad Run and the Potomac River. Dwellings and attached and detached accessory structures associated with dwellings are prohibited in the Major Floodplain under the existing requirements of the Floodplain Overlay District; therefore, the RPA restrictions would not have as much of an impact on areas of RPA that fall within the Major Floodplain. Existing structures would not be affected and areas of existing lawn may continue to be maintained; however, lawns may not be expanded. Areas identified within the boundaries of the “RMA/Possible RPA” would only be affected in cases where projects involving land disturbing activity greater than 2,500 sf are proposed. In this case, a grading permit would be required and an RPA delineation may be required if the disturbance is located within 200 feet of a stream or water body with the potential to be characterized as RPA (e.g., a perennial stream that flows year-round).	
50)	What ads / email / etc. do we have with inaccurate information and what is the accurate information? e.g., the ad that Dulles Area Association of Realtors ran in the local	McGimsey	To Staff’s knowledge, the Dulles Area Association of Realtors published two newspaper advertisements, one addressing suburban areas and one addressing rural areas. In addition, further public advertisements were recently published in	

No.	ISSUE DESCRIPTION	Comment Raised By	STAFF COMMENTS & RECOMMENDATION	BOARD COMMENTS
	papers. I have not seen it, but I hear it didn't have the facts quite right.		<p>the Loudoun Times-Mirror and Leesburg Today (at least) containing positions on the proposed amendments.</p> <p>Staff does not believe it would be helpful to answer all of the claims stated in these advertisements. Instead, staff encourages the Board and members of the public to review the FAQs published online at www.loudoun.gov/chesapeakebay and determine whether the information contained within the advertisements accurately reflects the nature, intent, and specific details of the proposed amendments.</p>	
51)	<p>Which property owners will be affected by RPAs?</p> <p>Exactly where in Sterling Park will be effected as in can a sample proposed map be given to me or posted so that residents can see for themselves without asking me?</p> <p>Will property owners have any responsibility for determining if their property is or should be designated RPA? If so, what is their responsibility?</p>	Delgaudio	<p>Properties with mapped RPA or RPA identified subsequent to required RPA delineations will be affected by the RPA requirements.</p> <p>The draft Chesapeake Bay Preservation Area Map is available as a PDF on the Chesapeake Bay Webpage (www.loudoun.gov/chesapeakebay). In addition, property owners can look up their property by address or parcel identification number and access two GIS layers(Under “Map Layers”, “Layer Groups”, select “Environmental” and in that list select either the “Draft Chesapeake Bay Area” map or the “Draft RPA Screening Tool”) on the County’s Mapping System at www.loudoun.gov/weblogis.</p> <p>The areas that would definitely be affected are the green areas (RPA) on the “Draft Chesapeake Bay Area” map. Property owners that propose improvements requiring land disturbing activity within the RPA will have to perform an RPA delineation. Property owners that propose improvements requiring land disturbing activity greater than 2,500 sf within the area identified as “RMA/Possible RPA” (yellow) on the “Draft RPA Screening Tool” may have to perform an RPA delineation in conjunction with the required grading permit if the disturbance is located within 200 feet of a stream or water body with the potential to be characterized as RPA (e.g., a perennial stream that flows year-round).</p>	
52)	How will a property that seems to meet the definition of RPA in Section 1222.05, but is not designated RPA on the Draft CBPA map, be impacted?	Delgaudio	Properties that seem to meet the definition of the RPA, but are not included in the mapped RPA would not be affected unless land disturbing activity in excess of 2,500 sf is proposed within 200 feet of a stream or water body with the potential to be characterized as RPA (e.g., a perennial stream that flows year-round) and areas of RPA are identified by an RPA delineation or 2) the Board amends the adopted RPA map.	

No.		ISSUE DESCRIPTION	Comment Raised By	STAFF COMMENTS & RECOMMENDATION	BOARD COMMENTS
53)		How will this ordinance impact property owners whose property is shown in whole or in part on the Draft RPA Screening map?	Delgaudio	<p>Areas designated “RMA/Possible RPA” by the “Draft RPA Screening Tool” would be affected as follows:</p> <p>Projects that require land disturbing activity of 2,500 square feet or less within “RMA/Possible RPA,” including decks, additions, sheds, gazebos, swing sets, pools, and any other accessory structures, would not be affected by the CBPA.</p> <p>A grading permit is required for all disturbances >2,500 sf within the “RMA/Possible RPA.”</p> <p>An RPA delineation may be required where land disturbing activity >2,500 sf is proposed within 200 feet of a stream or water body with the potential to be characterized as RPA (e.g., a perennial stream that flows year-round).</p> <p>Conventional septic systems located in the “RMA/Possible RPA” would have to be pumped out every 5 years.</p>	
54)		Are you planning to make the draft CBPO Process Flowcharts (#1-4) part of the official ordinance language? [If the answer is 'yes', does Flowchart #2 accurately describe the impacts, if any, provided in response to questions #52 and 53 above.]	Delgaudio	The Draft CBPO Process Flow Charts are not part of the CBPO. They are supporting materials designed to assist landowners in the implementation of the ordinance. Flow Chart #3 has been updated to better reflect the process outlined in the draft ordinance and will be provided as an attachment to the June 15, 2010 Board packet.	
55)		Will RPA property owners need county approval under the CBPO ordinance to do home gardens, individual home landscaping, and repairs and maintenance work, or to install fence posts and other kinds of posts? If so, how does this protect local streams and the Bay?	Delgaudio	<p>Landscaping that does not require the removal of woody vegetation, such as trees and shrubs, within the buffer is permitted. The removal of dead, diseased, dying, or storm-damaged trees and shrubs and noxious weeds is also permitted, provided that this vegetation is replaced with vegetation that is effective in retarding runoff, preventing erosion, and filtering nonpoint source pollution from runoff. Landscaping that provides woody vegetation within unforested buffers will improve the function of the buffer and is encouraged.</p> <p>Repairs and maintenance work are not affected by the CBPO. Redevelopment of existing structures is permitted within the RPA provided that there is no increase in the amount of impervious cover, it is in the same physical location, and there is no further encroachment into the RPA.</p> <p>Installation of fences is permitted in the RPA provided that they do not inhibit or alter surface flow; vegetation may be removed only as necessary to provide for the actual placement of the fence; and vegetation removed shall be replaced</p>	

No.	ISSUE DESCRIPTION	Comment Raised By	STAFF COMMENTS & RECOMMENDATION	BOARD COMMENTS
			<p>with other vegetation that is equally effective in retarding runoff, preventing erosion, and filtering nonpoint source pollution.</p> <p>Existing lawns and home gardens are permitted to remain in the RPA, but may only be expanded with the approval of an RPA exception. Establishment of these uses requires disturbance of existing vegetation within the buffer, exposes soil, and requires the application of fertilizers, herbicides, and pesticides that negate the benefits of a natural vegetated buffer.</p>	
56)	<p>Will the buffer areas of property owners with perennial waterways be affected by the RPA? Other related questions: Will the property owner with turf buffering their perennial waterways have to create a buffer with native plantings? If the buffer is incomplete will the property owner have to add additional plantings? Will the property owner be responsible for removing invasive alien species of vegetation?</p>	Delgaudio	<p>The RPA is subject to the requirements outlined in the CBPO. Areas of existing lawn may be maintained, but may only be expanded with the approval of an RPA exception. While landowners are encouraged to establish woody vegetation, such as shrubs and trees, in the 100-foot buffer, the buffer is only required to be planted where land is converted from agricultural and silvicultural (forestry) uses (e.g., when the property is subdivided or developed). Planting is not required in conjunction with applications for individual single family detached dwellings and associated accessory structures where disturbance of the RPA is not proposed.</p> <p>The removal of invasive alien species is not required, but is permitted, as long as vegetation removed is replaced with other vegetation that is equally effective in retarding runoff, preventing erosion, and filtering nonpoint source pollution.</p>	
57)	<p>What are the average costs for property owners in RPA's wishing to modify their properties? under various scenarios: i.e. <2500sf, >2500sf, accessory structures, additions, expansions, etc.).... something more detailed than the “Ball Park Costs for Activities Related to Chesapeake Bay Ordinance” provided as Attachment #10 in the May 5, 2010 Joint Board/PC Meeting packet.</p>	Delgaudio	<p>Staff has only obtained one cost estimate to date. The following costs are based upon the estimates provided in the “Ball Park Costs for Activities Related to Chesapeake Bay Ordinance” for activities proposed on properties containing mapped RPA:</p> <p>Development <2,500 sf on property located outside the RPA on a property that does not contain RPA would not be affected.</p> <p>Development <2,500 sf outside the RPA on property containing RPA elsewhere on the property would require review and approval of a Locational Clearance in conjunction with the Zoning Permit application. The current cost of the map required for the Locational Clearance is \$12.</p> <p>Land disturbing activity <2,500 sf located within the landward 50-feet of the 100-foot buffer requires a Minor WQIA. The RPA delineation can be provided by staff and the applicant can prepare all additional information without</p>	

No.	ISSUE DESCRIPTION	Comment Raised By	STAFF	BOARD COMMENTS
			COMMENTS & RECOMMENDATION	
			<p>assistance from a consultant or engineer. There would be no required costs associated with this application, except for any fees established by the Board for required administrative waivers and exceptions.</p> <p>Land disturbing activity >2,500 sf located within the 100-foot buffer or that encroaches into the seaward 50-feet of the buffer requires a Major WQIA. The consultant RPA delineation is estimated to cost between \$1,700 and \$4,350 and the consultant Tree Cover Inventory is estimated to cost \$300-\$1,000 for a 1/4-1/2 acre property. An engineered plan is estimated to cost \$300-\$1200. In addition, the Board may establish fees for required administrative waivers and exceptions.</p>	
58)	Since the County currently does not require zoning permits for patios, and therefore has no database or record of existing patios, how will they be able to grandfather existing patios, especially using the existing staff?	Delgaudio	Given the fact that zoning permits are not required for patios, enforcement of these provisions will be complaint based. Aerial photography can be used to verify the location of patios constructed prior to adoption. Staff will also seek additional information from the homeowner.	
59)	If the County currently requires a zoning permit for any size shed, but does not require permits for play houses, then if the Act is adopted, will a 6’X6’ playhouse with 36sqft of impervious surface require a permit and excepting if it were placed in an RPA? Is this treated any different than a 6’X6’ shed with the same roof line? Why isn't impervious surface treated the same regardless of the structure? Similar to Fairfax , Loudoun should not be concerned with any structure under 150 or 200 ft of impervious surface.	Delgaudio	<p>Regardless of whether the County requires a zoning permit, accessory structures are not allowed to be located within the RPA without the approval of an exception. However, it is acknowledged that the County will not be able to review the proposed location of an accessory structure unless it requires the approval of a zoning permit.</p> <p>Section 6-1000 of the revised 1993 Zoning Ordinance Zoning states, in part: <i>“...zoning permits shall be required prior to erection or occupation of an accessory structure or use listed below. (A) Residential accessory uses and structures including above ground deck; porch, gazebo; private garage, carport; private greenhouse; private swimming pool; storage shed for personal, non-commercial, use; studios and workshops without outdoor display for personal use; bus shelter/bus stand. (B) Commercial and industrial accessory uses and structures including emergency power generators; parking structures; recycling facilities pursuant to Section 5-607(B); storage sheds not exceeding 200 square feet; bus shelter/bus stand.”</i></p> <p>Clarification regarding zoning permit requirements for detached accessory structures such as playhouses, doghouses, and swing sets will be provided at the June 15, 2010 Committee of the Whole.</p>	
60)	If a property owner owns land designated as RMA and wants to build their retirement home (> 2500 sf) on it, what impact	Delgaudio	Land disturbing activity >2,500 sf within the RMA would require a Grading Permit (the fee is \$705, plus \$115 per disturbed acre or portion thereof). If the	

No.		ISSUE DESCRIPTION	Comment Raised By	STAFF COMMENTS & RECOMMENDATION	BOARD COMMENTS
		will this ordinance have? (I expect they will talk about a "plan of development", "disturbing no more land than necessary", "preserving indigenous vegetation to maximum extent practicable", and "minimizing impervious cover".) Does this mean they can't install a turf yard, plant the trees of their choosing, and have a nice paved driveway?		dwelling is located within 100 feet of the RPA, an engineered grading plan would also be required (the estimated cost is \$300-\$1200). A turf yard, driveway, and tree planting (of any species) would be permitted. Construction of a detached single-family dwelling does not require extensive disturbances such that the three general performance criteria (minimize land disturbance, preserve indigenous vegetation, and minimize impervious cover) would have any significant impact.	
61)		Exactly where in Sterling Park will be effected as in can a sample proposed map for RMAs be given to me or posted so that residents can see for themselves without asking me.	Delgaudio	<p>The RMA encompasses all of the land area outside the RPA.</p> <p>The draft Chesapeake Bay Preservation Area Map is available as a PDF on the Chesapeake Bay Webpage (www.loudoun.gov/chesapeakebay). In addition, property owners can look up their property by address or parcel identification number and access two GIS layers (the “Draft Chesapeake Bay Area” map and the “Draft RPA Screening Tool”) on the County’s Mapping System at www.loudoun.gov/weblogis.</p>	
62)		If the owner of a property designated as RMA with an existing home, wants to install a large concrete patio, gazebo, hottub, and extensive landscaping, etc. (i.e. >2500 sf), what impact will this ordinance have?	Delgaudio	Land disturbing activity >2,500 sf within the RMA would require a Grading Permit (the fee is \$705, plus \$115 per disturbed acre or portion thereof). If the dwelling is located within 100 feet of the RPA, an engineered grading plan would also be required (the estimated cost is \$300-\$1200).	
63)		Will RMA property owners need county approval under the CBPO ordinance to do home gardens, individual home landscaping, and repairs and maintenance work, or to install fence posts and other kinds of posts? If so, how does this protect local streams and the Bay?	Delgaudio	The referenced activities within the RMA would not require approval under the proposed CBPO.	
64)		What future impacts to properties designated as RMA do you foresee? i.e. In communities with interconnected stormwater management systems (with curb/yard drop inlets, manholes, pipe, ponds, dams, etc.), aren't all homeowners affecting the RPA's? Do you anticipate requiring all homeowners go through the county for land-disturbing activities? Do you anticipate future regulation of fertilizer use of all property owners?	Delgaudio	<p>The Board did not elect to designate other lands for inclusion within the RPA; therefore, no additional regulations pursuant to the CBPO are anticipated.</p> <p>Only homeowners that propose projects that require land disturbing activity >2,500 sf would be required to obtain a grading permit. Disturbances of this magnitude would be associated with substantial improvements. The majority of existing homeowners that have inquired about the effect of the CBPO have indicated that they are not planning any improvements that would require land disturbing activity >2,500 sf on their property.</p> <p>State enabling legislation would have to be approved to enable the County to adopt local fertilizer application requirements.</p>	

No.		ISSUE DESCRIPTION	Comment Raised By	STAFF COMMENTS & RECOMMENDATION	BOARD COMMENTS
65)		How will the CBPO impact property values for RMAs, RPAs, and potential" RPAs?	Delgaudio	While staff cannot confirm how the implementation of the Bay Act in Loudoun will affect property values, staff from the County Assessor’s Office contacted colleagues in Fairfax County, Prince William County, and Stafford County, who indicated that no significant impacts on fair market value have been observed as a result of the implementation of the Bay Act. Affects on property value will be identified through a parcel by parcel determination based upon the size and location of the RPA.	
66)		Are there any additional outreach sessions with property owners/homeowners planned? (separate from the district meetings which are being planned).	Delgaudio	The Board has directed staff to assist individual Board members in hosting informational forums in each Election District. Staff is available to provide additional outreach at the direction of the Board.	
67)		Can you supply additional documentation to demonstrate the improvements in water quality that have occurred over the last 20 years as a result of other counties adopting the Chesapeake Bay Act? Can you provide a presentation on the 2009 Stream Assessment so we can better understand the current state of water quality in Loudoun County? How will we know if we implement this ordinance if the water quality in Loudoun County has improved?	Delgaudio	<p>It is difficult to observe the direct effect of the Bay Act in individual jurisdictions due to the fact that we are unable to witness what the outcome would have been had the Bay Act not been implemented in those jurisdictions for the last twenty years. Complicating matters further, most areas have undergone population growth and development to one degree or another which would likely offset improvements.</p> <p>While the implementation of the Bay Act provides definitive water quality improvements (as noted in Item #42), it is impossible to isolate the effects of the Bay Act from the effects of other regulatory programs (e.g., erosion and sediment control and stormwater management) and voluntary programs (e.g., agricultural BMPs implemented under the Virginia BMP Cost-Share program) due to the fact that they are all implemented concurrently.</p> <p>Staff can provide a presentation on the 2009 Countywide Stream Assessment at the Board’s request. The reports, maps and interactive maps, as well as previous presentations, are available at www.loudoun.gov/streamassessment.</p> <p>Indicators of water quality improvement can be observed by trends in the number of miles of impaired stream identified during DEQ’s biannual Water Quality Assessment and through the County’s water quality monitoring efforts. Staff has proposed that the Countywide Stream Assessment be revisited in five years.</p>	
68)		What are the total costs for the county to implement and administer the CBPO? Will the state have costs associated with the County's adoption of CBPO? Will this information be provided prior to any BOS vote?	Delgaudio	<p>No additional costs have been proposed in conjunction with implementing and administering the CBPO.</p> <p>Compliance with the CBPO will be evaluated in conjunction with the County’s</p>	

No.	ISSUE DESCRIPTION	Comment Raised By	STAFF COMMENTS & RECOMMENDATION	BOARD COMMENTS
			<p>existing grading and development review process (e.g., Site Plans, Construction Plans and Profiles, Zoning/Building/Grading Permits). Where applicable, compliance with the CBPO will also be evaluated during the development of Farm Management Plans with the Loudoun Soil and Water Conservation District, Virginia Cooperative Extension, and the Natural Resources Conservation Service, and Forest Management Plans with the Virginia Department of Forestry.</p> <p>Enforcement of the CBPO will occur via the same complaint-based system currently in place for other violations of County ordinances (such as Erosion and Sediment Control). Complaints will be addressed by the Department of Building and Development. Complaints related to agricultural activities will be addressed in cooperation with the Loudoun Soil and Water Conservation District.</p> <p>No increased state costs are anticipated as a result of the County’s adoption of the CBPO.</p>	
69)	Can additional information be provided on the economic development impacts, if any, to the county associated with this ordinance?	Delgaudio	<p>One of the advantages of adopting a Bay Act program is the ability to observe how it has affected the other jurisdictions where local Bay Act ordinances have been in effect for the last 20 years. Strong economic growth has been observed in the Tidewater jurisdictions that have adopted the Bay Act, including the neighboring jurisdictions of Fairfax County and Prince William County. Staff is engaged in ongoing dialogue with members of the development community regarding the application of the draft Grandfathering Policy in an effort to minimize potential economic development effects while honoring the purpose of the CBPO.</p>	
70)	What specific, step-by-step process will be utilized for HOAs to get approval for maintaining and upgrading stormwater ponds?	Waters	<p>The CBPO acknowledges the stormwater management facility maintenance requirements outlined in Chapter 1096 of the Codified Ordinances of Loudoun (Section 1222.17(a)i). Chapter 1096 includes provisions for County maintenance of the structural elements of these facilities and HOA maintenance of the aesthetic elements of these facilities. No new requirements are envisioned in conjunction with routine maintenance and minor upgrades to these facilities.</p> <p>Expansion of existing stormwater management facilities located within the RPA to serve additional development projects would be subject to the requirements of the CBPO.</p>	

No.		ISSUE DESCRIPTION	Comment Raised By	STAFF COMMENTS & RECOMMENDATION	BOARD COMMENTS
71)		When a home-owner wants to make an improvement which might be affected by the Chesapeake Bay ordinance, to which body do they seek approval first, their HOA or the County? And would they have to go through the process again if for instance, they get approval from the County for their project, but not their HOA?	Waters	The requirement for evidence that County permits have been obtained is at the discretion of the HOA. Staff recommends that the property owner engage in dialogue with both the HOA and the County in situations where improvements are proposed within the RPA in order to identify potential alternatives prior to formally submitting a permit application.	
72)		What is the time limit for staff review of projects (to give the approve/reject to the homeowner)?	Waters	The County currently has no specified time limit for the staff review of homeowner projects. County staff frequently works directly with homeowners in obtaining completed applications and getting their projects approved as quickly as possible. The amount of time for staff review depends on the scope of the project, the quality of the application submitted, and the regulations that apply to a particular project. Other larger projects, such as homes and additions, can typically take a week or two for zoning permit approval. If the Chesapeake Bay Preservation Act amendments are approved, County review and approvals will not take any longer for any homeowner project that is proposed to disturb less than 2500 square feet located outside of the mapped RPA. Otherwise, the additional review time will vary depending on the scope of the project and the location of the proposed project in relation to the RPA. Projects that disturb greater than 2,500 sf require a grading permit. Staff will prepare more specific time estimates for the review of various homeowner projects to present at a future Board Work Session.	
73)		If a homeowner is found to be in the RPA, which limits the development/improvement of their property, how would such a designation affect their assessment? (One assumes this would impact their assessment since it reduces the overall buildable land area).	Waters	While staff cannot confirm how the implementation of the Bay Act in Loudoun will affect property values, staff from the County Assessor’s Office contacted colleagues in Fairfax County, Prince William County, and Stafford County, who indicated that no significant impacts on fair market value have been observed as a result of the implementation of the Bay Act. Affects on property value will be identified through a parcel by parcel determination based upon the size and location of the RPA.	
74)		When would such assessment changes take place, more immediate when the parcel is designated in the RPA or over time as the market adjusts to these restrictions on properties?	Waters	Changes in fair market value tend to be gradual and occur over time. Any changes resulting from implementation of the CBPO would be expected to be similar in nature. Any specific change to individual assessments would be based on settled sales that indicated the market reaction to the RPA, recognized by the assessment in the tax year following the sale.	

No.		ISSUE DESCRIPTION	Comment Raised By	STAFF COMMENTS & RECOMMENDATION	BOARD COMMENTS
75)		How will this Ordinance positively impact Loudoun’s stream and water quality? Is this quantifiable? How will its’ success be measured?	Buckley	These issues are addressed in Item #42 and #67.	
76)		What are the short term and long term costs of (a) implementation, and (b) enforcement of the Ordinance to the County in terms of dollars and staff resources?	Buckley	It is envisioned that short and long term implementation and enforcement of the CBPO will be achieved by existing staff under existing review processes, as outlined in Item #68.	
77)		What are the short term and long term costs of implementation of the Ordinance to businesses, developers, individual residents, and Homeowners Associations?	Buckley	<p>Costs to the County to implement the CBPO are addressed in Item #68. No additional long-term costs are anticipated.</p> <p>Costs for businesses, developers, and Homeowners Associations associated with implementing the CBPO would be associated with additional requirements to protect water quality in conjunction with proposed improvements/development that require the disturbance of >2,500 sf of land. Property owners who are not proposing improvements, or who are proposing minor improvements (e.g., projects that disturb <2,500 sf), would not experience any additional short or long term costs, with the following exceptions:</p> <ul style="list-style-type: none"> ▪ The septic pump-out requirement for conventional systems is an added cost of \$218 (current average cost) every five years (\$44/year) to maintain existing septic systems. ▪ There will be costs associated with implementing cropland and grazing land BMPs in some cases. Where cropland extends into the 100-foot buffer, additional BMPs will be required to be implemented. Although, in some instances, the required BMPs may already be implemented. Where permanent vegetative cover (e.g., 90% vegetative cover, equally distributed, and established to a minimum height of 2 inches) is not maintained, grazing land BMPs will have to be implemented. It is estimated that up to 15% of existing livestock farms may be affected by the need to install additional grazing land BMPs. However, cost-share assistance administered by the Loudoun Soil and Water Conservation District is available to help offset these anticipated costs. 	
78)		How does the County rank the importance of activities that damage local waters – agricultural, individual residents, commercial development, run off from existing roads, and commercial areas – and how are the specific regulations in	Buckley	County staff does not rank these activities with respect to their relative impact to local waters. Stream impairments in Loudon County are widespread and have been documented in every subwatershed, as identified in Item #35. This observation was recently confirmed by the Countywide Stream Assessment,	

No.	ISSUE DESCRIPTION	Comment Raised By	STAFF COMMENTS & RECOMMENDATION	BOARD COMMENTS
	the Ordinance formulated and targeted so as to effect the desired results of the Ordinance?		<p>which indicated that 78% of Loudoun’s streams are stressed or severely stressed. Although water chemistry was not extensively measured during that project, the biotic indicators that were identified can be attributed to excessive sediment and/or generally poor water quality. Sediment can come from virtually any land disturbing activity (development, agriculture, etc.) as well as stream bank erosion, often exacerbated by a lack of or ineffective stormwater management. Poor water quality can also result from many sources and activities. Riparian buffers have been shown to be effective for filtering out sediment in runoff, helping stabilize stream banks, filtering suspended pollutants from runoff, and cooling water temperatures, and are therefore seen as an effective resource in addressing the widespread water quality impairments observed in Loudoun.</p> <p>The regulations promulgated pursuant to the Bay Act provide a holistic, watershed-based approach to water quality that combines water quality elements applicable to all interests with specific requirements tailored to homeowners, farmers, and developers. As such, the Bay Act is a comprehensive regulatory approach for addressing water quality that complements other regulatory and voluntary watershed initiatives targeted toward addressing issues unique to individual subwatersheds.</p>	
79)	Are there options to implement the Ordinance in phases over time so as not to be too burdensome?	Buckley	The Board may elect to implement some of the 11 Performance Criteria over time. For example, the Board could elect not to adopt the septic pump-out criteria at this time and reserve it for a future amendment. However, staff does caution that certain criteria are instrumental to the ability to implement the program. For example, the criteria requiring a plan of development to be submitted in conjunction with land disturbing activity > than 2,500 square feet provides a mechanism to facilitate implementation of the program consistent with the enabling regulations.	
80)	Explain current grandfathering provisions. What options are there to better protect those already engaged in the land development process?	Buckley	Generally speaking, the draft grandfathering policy would require applicants to delineate the RPA and to comply with the CBPO to the “greatest extent possible,” provided that compliance would not preclude fulfillment of a proffer (e.g., substantial conformance with the CDP), reduce overall density, or require relocation of facilities to such an extent that an additional legislative application (e.g., ZCPA) would be required. It would also permit by-right applications based upon pre-ordinance approvals to go forward subject to complying with the CBPO to the “greatest extent possible.” Staff is coordinating with Fairfax	

No.		ISSUE DESCRIPTION		Comment Raised By	STAFF COMMENTS & RECOMMENDATION	BOARD COMMENTS
					County regarding the provisions and implementation of their 2003 Board Policy, which formed the basis from which the draft grandfathering policy was developed. Staff is also engaged in ongoing dialogue with members of the development community regarding the application of the draft Grandfathering Policy in an effort to minimize potential economic development effects while honoring the purpose of the CBPO.	
81)		Explain the process a homeowner would undertake if he/she were proposing a land disturbing activity of (a) 2,500 square feet or less, or (b) more than 2,500 square feet and provide the associated costs.		Buckley	Flow charts for land disturbance <2,500 sf and >2,500 sf were included in the Board public hearing packet. Flow Chart #3 has been updated to better reflect the process outlined in the draft ordinance and will be provided as an attachment to the June 15, 2010 Board packet. Costs associated with the various required plans and studies provided by one environmental consultant are outlined in the “Ball Park Costs for Activities Related to Chesapeake Bay Ordinance,” which was included in the May 5, 2010 Joint Board/Planning Commission Meeting packet. The costs identified in this table have also been added to the requirements outlined in Item #47 and Item #57.	
82)		List all situations in which the County Administrator must provide approvals for action under the Ordinance. Is there a way to streamline the process to eliminate some of the approvals currently required – i.e. lessen the administrative burden?		Buckley	The “Administrator” referenced in the CBPO is the Director of Building and Development or his/her designee, not the County Administrator. Staff has attempted to streamline the process by incorporating the submission and review of the required studies into the existing land development review and permit process. Staff participated in five meetings with the Facilities Standards Manual Public Review Committee in October 2009 and two meetings in May 2010 in order to achieve this goal.	